modem? That is, like when you were talking about the sabotage theory you were talking about dialing up the terminal. Do you know whether that could be done into the Huntington terminal in August of 1991?

A No, I, I don't know. Are you talking about dialing up to program into a Huntington terminal?

Q Yes, or to, to look at the test function, for example. If you remember the testimony, the engineers testified that someone had dialed Huntington by modem to, to have a look at the test --

A Okay. Then if, that's what they said then there would be an, an ability to do that from the Charleston office. And you have to realize that this programming that keeps on -- is so simple to do. You know, it's, it's -- once again I hate to keep using other people's terms -- but I liked it. The lower echelon -- this is not a computer science type thing or I couldn't do it. It's just like one-finger type. It's not typing, it's not entering codes and it's yes, no, one, two. It's quite simple on, on that dial-up. So, if you could dial up from Charleston to get into the modem, anyone could program it. Yes, ma'am.

Q Okay. You were talking about a sabotage theory earlier. You started talking about it yesterday, I believe. Now, if you could dial up the terminal from Charleston, you could dial up the terminal in Huntington, why would it have

been necessary for Rusty Harrison's secretary to call Charleston to turn off the test paging function?

A If it was capable, if it was possible, I wouldn't see any need for it. I don't know if it was or not at that time. As I say, today we have a dataline, okay? And I can't commit to something and answer something, ma'am, I really don't know because I don't know how it was done at that time. You know, Mr. Harrison would have known more about that. That's his office. I don't --

Q So, when you were describing the sabotage theory here, that's -- that description is for your present system that you have now, not necessarily what you had in 1991?

A No, no, that's not correct either. The, the central location that would have done the programming for Huntington, if you will -- with me for a minute, is Charleston, it always has been. Once we put in the new computer system, the SCI, and put the data work in, Huntington can now do their own programming where they could never do that before. It all was done in the home -- it was like -- it was set up basically, and this is one point I agree with, with RAM Paging, is that they have two people that do it, two low-level employees that, that do the programming for all their sites. See, all their sites call in to Ashland, Kentucky, at least that's how I understood him to stay, okay? We had all of our locations calling in to the Charleston facility to do it until we put in

the SCI equipment with the networking.

Q So --

A And Huntington is the only office that can do their own programming now. Everything else can still go through Charleston. But Charleston is still able to program for Huntington. Huntington can't program Charleston.

Q Okay. Now, you indicated when you were talking about your, your theory or possible sabotage that someone could just telephone -- patch in to the terminal by telephone.

A I didn't say patch in to the terminal, man. They can patch in to the computer by a dial-up phone line. That's -- absolutely no problem.

Q So, couldn't Mr. Harrison's secretary in Huntington dial up the computer in Charleston and turn off the auto-test function without having to call someone to do it in Charleston?

A I wouldn't see why not if she knew the modem line number. But you have to realize she worked in Huntington. She had no reason to know the modem line number in Charleston.

Q Okay. Now, in order to set up this system that you described, this -- you know, when we were talking about the sabotage theory, and I understand that you, you described it as a theory. The saboteur would have to know the numbers for the pagers that are actually out on the field, wouldn't they, before they could set up the chaining?

A No. No. I mean -- no. They would have to know a number, but not every number that's out in the field. I mean, we have in excess of 10,000 numbers in our system and our, our numbers operate the same as, as any other paging company. You get blocks of numbers. 2,000, 3,000, you know. 2,000 -- you know, my pager number is 2000, okay? Starting at 2000, all the way up to 2999 may be our block of numbers. All they'd need to know is one number in Capitol Paging, one pager number. Somebody that's got a Capitol Paging number, that could be 2000, well, they, they can just go on from there. And that's the way all paging -- we, we purchase numbers in blocks of minimum of 100.

Q Now, in your testimony you indicated that you did, that you did a lot of testing of your link frequency.

A Yes.

Q And you, and you described some of the problems you had with the link frequency. And was the testing that you were doing in 1991 connected to that link-frequency problem?

A If I can refer to, to all the licensing I think I can answer that exactly rather than guess. Because it refers -- all testing refers to your link frequency or your range because if your link is working your, your transmitter -- if your link is not working, your transmitter is not working. Once you finally get a link working, then the transmitter is working and you must find the range, but there are steps you

must follow. So, we went through and coordinated through NABER three or four links. So, whether it was a link testing in '91 or range -- and when we got one link that worked then we'd start on the range and the link would quit and we'd have to get another link. And it was just a -- it was an evil cycle.

Q So, when you say you were testing for range, that's the same as testing for coverage?

A Yes, ma'am. I'm sorry.

Q And you were doing that also at the same time?

A Well, maybe, maybe I didn't explain it well. First of all, you get a link frequency and hopefully it's, it's a good one and it's clean. And so you can really do your testing for both things at one time, ma'am, okay? Because if you're getting your pages you know your link is working, okay? So, then once you're, you're sure that it's dependable -- that you're getting most of your pages and it's dependable, then you can start shooting for range.

Q Was your link frequency working by August of 1991 when the FCC inspection took place?

A I don't even know if we had the final link. If we look at the license we'll see if we had -- when our final link was. On the last link frequency it finally started to be 99 percent good.

JUDGE CHACHKIN: Is there, is there an exhibit

showing the licenses?

MR. HARDMAN: Yes, Your Honor.

JUDGE CHACHKIN: Why don't we use that to refresh the witness's recollection instead of guessing the time?

MR. JOYCE: It's behind --

JUDGE CHACHKIN: Why don't you use this as a frame of reference in answering the question.

MR. RAYMOND: I believe as you'll see, on 7/23/92, was our last link frequency, if I am correct. And that was the frequency that seemed to work. As of 4/4/91, the link frequency was not a good frequency. Not a clean link frequency.

BY MS. LADEN:

Q So, is it your testimony that in August of '91 when the engineers did the inspection there were still problems with the link frequency?

A Well, if this license is 4/4/91, I would say yes, ma'am. Because we had to change once again.

Q Okay.

A Matter of fact -- I'm sorry. Matter of fact, we changed twice again after they were there.

JUDGE CHACHKIN: What page --

MR. RAYMOND: On page four on 7/19 of '91 we went to 460.7250. And then our last one, Your Honor, I believe if I read this right would page six which was 7/23/92 with a

frequency of 460.72500.

BY MS. LADEN:

Q Now, Mr. Raymond, isn't that frequency, 240.72500, the same frequency that's on page --

A You are correct?

Q -- four?

A If you look -- I'm sorry, and I agree with you. If you look, we had to change our control point. The, the, the distance from the Nease Drive site to the Kenova site, or the Rotary Park site, either one, was too long a haul. It kept getting knocked down. That is why we changed it to he Russell Road on 7/23/92, St. Albans, which made it closer to those sites. So it, it actually made a stop and then we transmit it once again to make it get there.

Q Now --

A We did not do anything until we got our license.

Q When you first started out you indicate in your testimony that your link frequency had a local community repeater licensee on it. Is that correct?

A We -- yes. We had several people, whether they were licensed or not I don't know. We just know that the repeaters kept coming up and they, they -- whether they were close enough to that band possibly to even knock them down. We had a tremendous amount of problems. And as I remember, one was Putnam County or something, I think I had talked about

earlier, bus that we'd got the same frequency.

Q Did you pick those frequencies or --

A Well, I guess I'll just have to say how it is. I complained to NABER about that. I complained to a lot of people about that because they were supposedly coordinating these. And we kept sending them money and they said, well, this one's clean. We would put it in and it wouldn't be clean. And it was just -- in my opinion it's a roll of the dice on whether you're going to get a clean one or not. Now, maybe I did things backwards. But when I understand NABER is a coordinating unit, I assume they coordinated the frequency.

Q Did you have a telephone in your car?

A Yes, ma'am.

Q Do you have a portable phone in addition to the telephone in your car?

A At that -- when -- now, today?

Q Let's say August of 1991.

A No.

Q Did you have a telephone in your car in August of '91?

A Oh, yes, ma'am, I had a, had a telephone in my car. Yes.

Q Did other people at Capitol have telephones in their car in '91?

A Yes, ma'am. Portables and transportables.

Q Now, couldn't you do the test for coverage -- rather than having the automatic test function, couldn't someone with a telephone in their car place a page and test the coverage or the range that way?

A Could people do that?

Q Yes.

A Sure, people could do that. Did we elect -- no, we, we didn't elect to do it that way. Not everyone gets their phones free. Some people have to pay 60-cents a minute in Charleston, West Virginia for a peak period of time. And when you use -- and if the page only takes three seconds or five seconds, in West Virginia that's a minute's worth of time. That would be 60 cents if you were paying for your phone. That's a 60-cent page. Pretty expensive, wouldn't you think?

Q Now, if you had elected to every once in a while when you're out in the car to place a page and to see how the coverage is, would that not have taken up less air time than having the auto-test function going?

A I really don't understand your question.

Q Well, the engineers testified that there was a sequential tone that lasted for some period of time. They also testified that when there was traffic it tended to get backed up. Wouldn't all of those problems been eliminated if you had tested your range or your coverage or your link frequency by placing pages every once in a while when you're

out in the car over the car phone?

A Well, quite to the contrary of how you're explaining it. Not as many pages may have gone out, but they would have still backed up and been those long sequentials of tones what they're talking about because our inhibitor was working. And by those long tones, three and four or whatever they said, and it would wait, it would have still backed up. Whether it was made from a car or, or a computer is immaterial. Now, there might not have been as many sent if you were dialing them up as from the computer because we may have not sent them exactly every minute from a telephone. It could have been a minute and a half or whatever, or, or, or five minutes. I mean, whatever you would dial it. But, but what you're saying is wrong.

Q Okay. Now, you recall of course when the engineers came to do their inspection in August '91?

A Yes, ma'am.

Q Do you recall -- were you present at the time when Mr. Bogert -- when -- were you the person who called Commonwealth Paging --

A Yes, ma'am, I was.

Q -- to ask about the Morse code --

A Yes, I was.

Q And if you recall, you -- Mr. Bogert testified that he got on the telephone with the people?

A Yes, ma'am.

Q And that's your recollection of how it was?

A Absolutely. He took the phone away from me.

Q Okay. Do you remember what he -- what if anything he said to you after the telephone --

A "Must be set right."

Q Mr. Bogert never indicated to you that there was a problem with the speed of the Morse code?

A I didn't say that. No, ma'am. He was talking about the Morse code was too slow and I told him it was set from the factory. He did indicate that it was too slow, yes, ma'am. We called the factory. I was talking to him. He took the phone away from me to talk to them. He was talking about the dip switches and all this. And then in his testimony I heard him say, "Well, the card could have been upside down or I could have been looking at it wrong." There's only one way to put the card in, you know? It's a channel card. It only goes in one way. There ain't no upside down to it. So, it was set properly from the factory. When he finished he hung up the phone and he said, "It must be set right." That was it.

Q Now, at that point did you assume that the speed of the Morse code was correct?

A I assumed that it was set right. That is the exact words he used.

Q I understand. But did you assume from that

statement that the speed was fast enough?

A I assumed that it was set right. I don't read Morse code. I don't know how slow it is. I don't know how fast it is. His words were, "It must be set right."

Q Okay. Now, at this point you knew that the Morse -- that they had measured the Morse code -- they had actually timed the Morse code as being too slow. Is that correct?

A He had said it was running slow. Yes, ma'am.

Q At any point after this discussion did you time or have someone time the Morse code?

A No, ma'am. Because my last opinion was it must be set right.

JUDGE CHACHKIN: You have much more?

MS. LADEN: I think about 15 or 20 minutes, Your Honor.

JUDGE CHACHKIN: All right. The witness is going to be -- he's not planning on going back is he?

MR. HARDMAN: He's here for the duration.

JUDGE CHACHKIN: Well, then we'll recess till 9:30 but we'll start with --

MR. JOYCE: We'll start with Mr. Peters.

JUDGE CHACHKIN: Mr. Peterson -- Peters, at 9:30 tomorrow, yes.

(Whereupon, off the record at 4:03 p.m., the hearing was recessed, to be continued on February 8, 1994.)

CERTIFICATE OF REPORTER, TRANSCRIBER, AND PROOFREADER

IN THE MATTER OF CHARLESTON, WEST VIRGINIA
Name

PR DOCKET NO. 93-231
Docket No.

WASHINGTON, D.C.
Place

FEBRUARY 7, 1994
Date

We, the undersigned, do hereby certify that the foregoing pages, numbers 826 **through** 1036 **, inclusive, are the true, accurate and complete transcript prepared from the reporting by** MARYKAE FLEISHMAN **in attendance at the above identified proceeding, in accordance with applicable provisions of the current Federal Communications Commission's professional verbatim reporting and transcription Statement of Work and have verified the accuracy of the transcript by (1) comparing the typewritten transcript against the reporting or recording accomplished at the proceeding and (2) comparing the final proofed typewritten transcript against the reporting or recording accomplished at the proceeding.**

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